

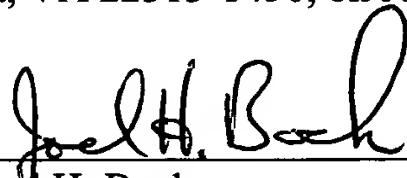


PATENT
Attorney Docket No. 1112-0051

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)
Robert E. Callies et al.)
Serial No.: 09/872,604)
Filed: June 1, 2001)
Group Art Unit: 3752)
Examiner: Davis D. Hwu)
For: DISTRIBUTION TUBE ASSEMBLY)
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REPLY BRIEF

Dear Sir:

In response to the Examiner's Answer, Applicants note and appreciate the indication that the grounds of rejection based on Dunn 4,763,842 are withdrawn. Dependent claims 2, 13 and 21 which previously had been rejected solely on the basis of Dunn '842 are newly rejected in the Answer under Section 102(b) on the basis of Hane 4,162,041. Accordingly, this Reply Brief addresses the new grounds for rejection raised in the Examiner's Answer with respect to

dependent claims 2, 13 and 21 and provides additional comments to the outstanding rejections based on Hane '041.

As set forth in 37 C.F.R. 41.39 (b), sections 1-5, 8 and 9 of the Appeal Brief are reincorporated herein pursuant to the requirements of Rule 41.39(b), as such sections are identical, it is believed that repetition of these sections is not required. Sections 6 and 7 of the Appeal Brief are also reincorporated to the extent they are applicable. In addition, these sections are supplemented as follows to address the new grounds of rejection raised in the Answer:

(6) NEW GROUNDS OF REJECTION RAISED IN EXAMINER'S ANSWER

(A) Claims 1-9, 13, 14, 16-19, 21 and 23-25 are rejected under 35 U.S.C. §102(b) as anticipated by Hane '041. Applicant reiterates separate arguments as to: (I) whether independent claim 1 and dependent claims 2-9, 13 and 14 are anticipated by Hane '041; and (II) whether independent claim 16 and dependent claims 17-19, 21 and 23-25 are anticipated by Hane '041.

(7) REPLY BRIEF ARGUMENT

(A) Claims 1-9, 13, 14, 16-19, 21 and 23-25 are rejected under 35 U.S.C. §102(b) as anticipated by Hane '041.

(I) Independent claim 1 and dependent claims 2-9, 13 and 14 are not anticipated by Hane '041.

In response to the Answer, Applicants respectfully emphasize that Hane '041 does not anticipate the claimed structure.

In the Answer, it is presumed that Hane '041 teaches a second fluid supply line separate from the main supply line 7 by relying upon a "passage" 18 as a "second fluid supply line" which

supplies water to pipes 3. Applicants respectfully disagree that the passage 18 constitutes a “second fluid supply line” because the passage 18 is actually disclosed as a “hole” that merely permits fluid flow from the main pipe 2 to the branches or sub-pipes 3. In fact, the “passage” 18 is supplied by the same fluid supply line, e.g., the main supply line 2, instead of any second fluid supply line. Thus, it is respectfully submitted that the hole 18 cannot be considered a second or alternate fluid supply line as required by the claims.

Further, it is respectfully submitted the “hole” 18 in Hane cannot be interpreted as a “second fluid supply line” because to do so effectively reads language out of claim 1. As is well established by case authority, structural limitations in the claims cannot be ignored. See e.g., Pac-Tec, Inc. v. Amerace Corp., 903 F.2d 796, 14 USPQ2d 1871 (Fed. Cir. 1990); In Re Venezia, 530 F.2d 956, 189 USPQ 149 (CCPA 1976). Claim 1 recites that at least another of the fluid passageways is in fluid communication with a second fluid supply line. The second fluid supply line as recited in claim 1 clearly cannot be the same supply line as the earlier recited main supply line. The alleged “second supply line” 18 in Hane is merely a “hole” 18 which allows the fluid to flow from the main pipes 2 to the subpipes 3 such that the main pipes 2 and the subpipes 3 are each supplied by the same supply line. There is no getting around the fact that one, and only one, fluid can be dispensed from the Hane device. Hane’s structure simply does not contain the elements called for in claim 1.

In addition, Hane ‘041 does not teach first and second passageways that permit fluid flow from each respective upstream end to the respective second downstream end. In Hane’s structure, the upstream end of Hane’s sub-pipe 3 (i.e., the upstream most end of the “first section” of subpipe 3) does not permit fluid flow from its leftmost portion in a downstream

direction. Indeed, the Answer admits as much. The flow in the “first section” of the subpipe 3 is clearly in the opposite direction because fluid flows from hole 18 in the connector 5 towards the upstream most connector 4 of “first section” of the subpipe 3 until it is stopped by the closed end wall 12 (see Figure 3).

Despite the Answer’s admission, the Answer relies upon the combination of the “first section” of subpipe 3, the connector 5 and a “second section” of the subpipe 3 just downstream of the first second to reject claim 1. Applicants fail to understand how this combination provides flow in a second fluid passageway from the upstream end to the downstream end when it is clear that the first section of pipe 3 does not permit such flow. It is respectfully submitted that the combined structure must also lack the features that the individual structures lack.

It must be emphasized that the plurality of subpipes 3 do not constitute a “second fluid passageway” having the claimed features as recited in claim 1. The subpipes 3 are merely branches from the main pipes 2 such that the subpipes 3 in Hane ‘041 are fed from differently spaced intermediate locations along the main pipes 2. In contrast to the claims, the subpipes 3 cannot provide a fluid stream through the combined structure of its first, second, third, etc. sections because adjacent sections of the subpipes 3 each receive fluid flow from a different spaced connector 5 in a different direction.

For all of the above reasons, Hane ‘041 is respectfully believed to lack recited features in independent claim 1 and its corresponding dependent claims 2-9, 13 and 14. Accordingly, reversal of this rejection and allowance of these claims are respectfully requested.

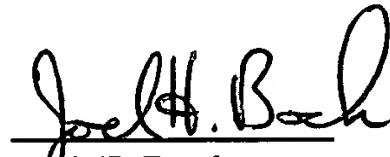
(II) Independent claim 16 and dependent claims 17-19, 21 and 23-25 are not anticipated by Hane '041.

In response to the rejection of claims 16-19, 21 and 23-25, Applicants respectfully reiterate the reasons discussed above with respect to independent claim 1 and its corresponding dependent claims, as all such claims were rejected on the same basis for anticipation by Hane '041. Applicants respectfully request withdrawal of this rejection and allowance of claims 16-19, 21 and 23-25.

Conclusion

For all the above reasons together with the reasons articulated in the Appeal Brief, independent claims 1 and 16 and their corresponding dependent claims 2-9, 13, 14, 17-19, 21, and 23-25 are respectfully believed to be distinguishable over the cited references in addition to dependent claims 10-12 and 20 which are already indicated as allowable.

Respectfully submitted,



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